

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1758 – HB 1794

February 20, 2018

SUMMARY OF ORIGINAL BILL: Establishes the “Online Notary Public Act”, authorizing the Secretary of State (SOS) to promulgate rules to facilitate online notarizations.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$164,600/FY18-19/Secretary of State

\$4,600/FY19-20 and Subsequent Years/Secretary of State

Increase State Expenditures –

\$164,600/FY18-19/Secretary of State

\$4,600/FY19-20 and Subsequent Years/Secretary of State

SUMMARY OF AMENDMENT (013246): Deletes all language after the enacting clause and replaces language of the proposed legislation such that the only substantive changes are (1) adding that a natural person can act on behalf of the maker of the document; (2) clarifying the definition of “appearance” to include appearing by way of an interactive two-way audio and video communication; (3) authorizes the use of an electronic signature or a digitized image of a wet signature, which does not need to be accompanied by a physical or electronic image of a stamp, impression, or seal; and (4) provides that the requirement of an official notary seal is satisfied by an electronically transmitted document if the document legibly reproduces the required elements of the seal.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 8-16-112 pertains to the scope of powers provided for notary publics.
- The proposed legislation authorizes the use of an electronic signature or a digitized image of a wet signature, which does not need to be accompanied by a physical or electronic image of a stamp, impression.

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- Tennessee Code Annotated § 8-16-114 establishes the requirement that an official seal be used by a notary public in Tennessee and stamped on documents being notarized.
- The proposed legislation provides that the requirement of an official notary seal is satisfied by an electronically transmitted document if the document legibly reproduces the required elements of the seal.
- This legislation authorizes the SOS to expand the duties of a notary public to include online notarization of documents.
- The expansion of these notary public duties will require the SOS to develop software and maintain servers for identity and payment information storage that will be submitted by the new applicants.
- Based on information provided by the SOS, the one-time cost for software development is estimated to be \$150,000 (\$150 per hour x 1,000 hours); additional one-time cost for two secure data storage servers is estimated to be \$10,000 (\$5,000 x 2); for a total one-time increase in state expenditures estimated to be \$160,000.
- The SOS reports that as of December 31, 2017, there were 22,849 active notary publics.
- Ten percent of current notaries, or 2,285 notaries ($22,849 \times .10 = 2,284.9$), will apply for certification to facilitate these online notarizations each year.
- The SOS will incur recurring costs estimated to be \$4,570 ($\$2.00 \times 2,285$ applicants per year) for printing and mailing the certificates of new online notary applicants.
- The total increase in state expenditures to the SOS in FY18-19 is estimated to be \$164,570 ($\$160,000 + \$4,570$).
- The recurring increase in state expenditures to the SOS beginning in FY19-20 is estimated to be \$4,570.
- This legislation authorizes the SOS to charge an application fee not to exceed an amount necessary to administer the certification program. Pursuant to this provision, the increase in state revenue to the SOS is estimated to be \$164,570 in FY18-19, and is estimated to be \$4,570 in FY19-20 and subsequent years. This equates to a fee of approximately \$72.02 ($\$164,570 / 2,285$ applicants) in FY18-19 to cover all startup costs; and a fee of \$2.00 ($\$4,570 / 2,285$ applicants) in FY19-20 and subsequent years to cover on-going costs associated application processing.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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